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SUBJECT: CHILD LABOR IN HONDURAS: INFORMATION FOR THE TRADE
AND DEVELOPMENT ACT (GSP) REPORTING REQUIREMENTS

REF: STATE 143552

¶11. Summary. Over the past several months, EmbOffs have spoken with government officials, private sector, labor unions, non-governmental organizations, and child advocates regarding the situation of child labor in Honduras. The Embassy has been active in promoting an agenda to support the eradication of the worst forms of child labor. Post believes that child labor is a serious problem in Honduras and will continue to pressure government and private sector stakeholders to eradicate the worst forms of child labor. The Government of Honduras (GOH) and the Ministry of Labor have demonstrated the political will necessary to implement and uphold their obligations to eliminate the worst forms of child labor, but progress has been slow. The formal export manufacturing sector has a relatively good record on child labor, the informal and agricultural sectors do not. Answers below generally follow the subjects specified in ref **¶1A.** End Summary.

CHILD LABOR IN HONDURAS

¶12. The most recent survey by the Honduran National Institute of Statistics, financed by the U.S. Department of Labor through the International Labor Organization (ILO)-managed by the International Program on the Elimination of Child Labor (IPEC) program SIMPOC, in 2004 determined that approximately 359,752 children (or 14 percent of children) between the ages of 5 and 18 work either part-time or full-time in Honduras, the majority for their own families, in the informal sector and in rural areas. Of the 359,752 children, 76 percent are boys (almost three times as many in rural areas as urban), and 24 percent are female (with no noticeable disparity between urban and rural). Sixty-eight percent live in rural areas and the remaining 32 percent are in the urban areas. According to INE, in 2002 61.2 percent worked unpaid for their families, while 27.6 percent were paid for work outside their families. Many of these children work out of economic necessity alongside other family members. The figure of 359,752 children is slightly down from 2002 estimates of 367,405 children.

¶13. Bonded and/or enslaved labor are rare, but work in hazardous conditions and for long hours is common, especially for those children who have given up schooling. The largely U.S.-funded ILO/IPEC identified the worst forms of child labor in Honduras as commercial sexual exploitation/prostitution (particularly in tourist areas along the North Coast), fireworks industry workers in Copan, child divers on lobster boats in the Mosquitia (Caribbean coast), limestone quarry and lime production workers, garbage dump pickers in the two largest cities of Tegucigalpa and San Pedro Sula, and coffee and melon agricultural workers. Of these occupations, the most hazardous is diving, and the one with the most significant incidence of child labor is in the agriculture industry, where NGOs and the GOH previously estimated that approximately 2,000 children worked as seasonal laborers for melon production. Harvesting sugar cane fields is also a dangerous area of child labor. The NGO Casa Alianza documented more than 1,000 minors in Honduras that were the victims of commercial sexual exploitation in 2003. Casa Alianza also recently conducted a study in 20 cities of Honduras and found that 10,000 children were either victims of sexual exploitation crimes and/or trafficking in persons (the vast majority of the victims were girls; only 400 of the children were boys). Casa Alianza is beginning a regional project that would investigate trafficking of children and help reintegrate them.

PROSCRIBING WORST FORMS OF CHILD LABOR

¶14. Honduras has adequate laws and regulations proscribing the worst forms of child labor. The Honduran Congress ratified ILO Convention 182 in May 2001 and Honduras became

a party to the convention in June 2001. The definitions of the worst forms of child labor are identical to that of the ILO Convention 182. All child labor laws, including the ILO Convention 182, are applicable in all sectors and industries.

15. Honduras regulates child labor in the Constitution and in two codes, one relating to minors, and the other to labor. The Constitution (Chapter 5, article 128, section 7) establishes that minors under age 16 or who are students ages 16 and older cannot work, unless authorities determine it is indispensable for the family's income and will not conflict with schooling. The Constitution also establishes the maximum hours worked for children under 17 years as six hours daily and 30 hours weekly. Under the 1996 Child and Adolescent Code parents or a legal guardian can request the Ministry of Labor (MOL) for special permission to allow children ages 14-15 to work, as long as the Ministry of Labor performs a home study to assure that the child both shows the need to work and will be working under non-hazardous conditions. The maximum workday permitted for children is four hours per day for 14-15 year-olds, and six hours per day for 16-17 year-olds. No child under age 16 is allowed to work in hazardous conditions. No minor is allowed to work in undersea fishing or work abroad. By, the Ministry of Labor is required to carry out home studies and limit the number of permits that can be issued to children ages 14-15. In practice, the MOL is limited in its ability to conduct home studies. The Labor Code, passed in 1959 and subsequently revised, prohibits night work and overtime for minors under age 16, and also requires that employers in areas with more than 20 school-aged children on their farm, ranch, or business must provide a location for a school. In practice, the vast majority of children work without going to the Ministry of Labor to request a permit, particularly those who work in the informal sector and in rural areas.

16. International treaties supercede the Constitution. Honduras is a party to ILO Convention 138, which was ratified in 1980. Convention 138 establishes the minimum age of work at 14 years and specifies the minimum age for completing educational requirements at 15 years, or 14 years in the case of developing countries. The United Nations Convention on the Rights of Children, ratified by Honduras in 1990, requires each signatory government to establish a minimum age of work, conditions and hours of work, and penalties to assure effective application of the law. The 1996 Child and Adolescent Code was based on the UN Convention, according to the Ministry of Labor.

17. Honduran law defines hazardous work to include the following: standing on scaffolding higher than three meters; use of toxic or noxious substances; exposure to vehicular traffic; exposure to abnormal temperatures; work in tunnels or underground mining; exposure to noise louder than 80 decibels; manipulation of radioactive substances; exposure to high voltage electric currents; underwater diving; exposure to garbage or to biological or pathogenic substances; painting with industrial or lead paint; work on dangerous machines such as those that cut, shape, or file metal or wood; activities related to ovens, smelters, metal-working, or heavy presses; and/or high-risk agro-industrial work.

18. The minimum age for employment is consistent with the age for completing educational requirements in law, but in practice, approximately 56 percent of children do not complete sixth grade, despite GOH increased spending on educational budgets and improvement to school access in rural areas.

IMPLEMENTATION AND ENFORCEMENT MECHANISMS

19. The laws and regulations regarding child labor are better implemented in urban areas than in rural areas. A rural economy in which a significant portion of employment is in the informal sector and in which parents face high opportunity costs to send children to school (often there is a lack of available schooling) makes it difficult to implement and enforce these measures against child labor. In large-scale manufacturing and services, however, implementation and enforcement of these measures are more consistent. National enforcement remedies are not adequate to punish or deter violations, but pressure from international agreements, such as the Generalized System of Preferences (GSP) and Caribbean Basin Trade Partnership Act (CBTPA), the signed and ratified but not yet implemented, U.S.-Central America Free Trade Agreement (CAFTA), and awareness of the Department of Homeland Security's Immigration and Customs Enforcement (DHS/ICE) Forced Child Labor program, have sensitized employers who work in the export sector. Post invited a DHS/ICE Forced Child Labor expert to come to Honduras in August, where he spoke at two conferences in Tegucigalpa and San Pedro Sula sponsored by

ILO/IPEC and the Honduran Private Business Council (COHEP). The conferences had wide attendance from business associations.

¶10. Regarding the worst forms of child labor, the GOH has not established enforcement or penalties beyond those mentioned above and - for child labor in illicit activities - in the criminal code. Penalties imposed on firms for violating the Child and Adolescent Code include sanctions between USD 265 and 1,323 (5,000-25,000 Lempiras), or twice that if the employer is a repeat offender. For sale or trafficking of children, the criminal code prohibits illegal detention of minors and imposes a 14-18 year prison sentence. Forced child labor, prostitution, and other immoral activities are characterized as economic exploitation in the Child and Adolescent Code and are subject to a three to five year prison term. Furthermore, the criminal code specifies a seven to 12 year sentence, and a USD 397 to 794 (7,500-15,000 Lempiras) fine for persons found guilty of prostituting minors. Adults who use children in narcotrafficking are sanctioned according to the Law on the Illicit Use and Trafficking of Psychotropic Drugs.

¶11. The GOH has yet to publish in La Gaceta (equivalent to the Federal Register) the reformed Chapter 2 (regarding sexual exploitation) of the Penal Code. The new amendments to the law are significant since they increase penalties in the years of imprisonment and impose larger fines, as well as expand the punishable offenses. The law's passage is a significant step towards combating the worst forms of child labor.

¶12. In theory, if children are found to be working in illicit conditions, either through a labor inspection or through a police investigation, the Public Ministry's Special Prosecutor for Children, founded in 1997, works with the investigative police to gather evidence and bring the perpetrators to trial. The Special Prosecutor for Children conducts joint operations with the police, the Honduran Institute for Children and the Family (IHNFA), judges, and the NGO Casa Alianza to try to rescue children that are victims of commercial sexual exploitation and to arrest and subsequently prosecute the offenders. The judicial branch has also established Children Courts, where violations of children's rights are tried. In practice, the Honduran police and judicial system are rife with inefficiencies and corruption and face many difficulties in administering justice. Nonetheless, the GOH has begun to improve its police force and recently implemented a new modern criminal procedures code that is intended to improve the Government's ability to bring cases to trial and to administer justice.

¶13. For children employed in the worst forms of child labor that are not illicit by their nature, but are hazardous or illegal for minors, the authority that would investigate such cases is the Ministry of Labor, which has trained inspectors to identify child labor. Labor inspectors, upon being told of a violation or in a routine inspection, report the incident for administrative action. The inspection unit cannot immediately sanction employers, and the Ministry has only 119 inspectors (102 general labor inspectors, and 17 occupational safety and health inspectors) in a country of approximately 7 million people. (Note: Even more than most government ministries, a severe lack of resources restricts what the MOL is able to accomplish. End Note.) The MOL has also cooperated with the Honduran Private Business Council (COHEP) to conduct education campaigns among private industries to increase business awareness of the worst forms of child labor. Early in 2001 the Minister of Labor personally directed a special inspection of the melon industry in order to uncover the incidence of abuse in that sector. Since then, Minister German Leitzelar has visited Choluteca several times to observe the problems of child labor in the melon and sugar cane industries.

¶14. In addition, lobster diving has been identified as one of the most hazardous occupations employing children in Honduras. Lobster divers who have sustained injuries while diving have formed their own organization, the Honduran Mosquitia Association of Handicapped Divers, to push for improved conditions. In March, this association, together with other Mosquitia organizations, brought a complaint against the GOH to the Inter-American Commission on Human Rights. As a result, Honduran press coverage of health and safety risks in this industry increased. The former Vice Minister of Agriculture stated that a complete ban on lobster diving is the only viable solution to the violations of worker safety regulations in the industry. The ban was debated by an inter-ministerial committee with representatives from the Ministries of Agriculture, Labor, Trade and Industry, Governance and Justice, and Education. There have been two concrete actions by the inter-ministerial committee in regards to lobster diving: (1) installation of a decompression chamber, and (2) health checks for divers conducted by the Ministry of Health.

WHAT DOES THE GOH DO?

¶15. The Government provides free, universal, and compulsory education through the age of 13; however, in 2004 the Government estimated that as many as 237,245 children ages 5-13 fail to receive schooling of any kind each year. (The total national population of children ages 5-18 as of 2004 is 2,630,305.) Keeping students in school is one of the largest problems facing the education system in Honduras. Though there is high enrollment at the early primary level, dropout rates increase dramatically from one grade to the next. According to the 2002 INE study, only 1 in 2 Honduran students makes it to the sixth grade, a dismal 1 in 5 reach the ninth grade, and less than 1 in 10 reach twelfth grade; only 1 in 3 students makes it to sixth grade in 6 years, and less than 1 in 10 makes it to ninth grade in 9 years. According to the 2004 study by INE, only 21 percent of children between 16 and 18 years of age are currently in school. Educational achievement in Honduras, whether measured by enrollment or by test results, is well below the regional average. As of 2004, the average Honduran woman has approximately 4.7 years of primary education, and the average man has approximately 4.9 years of primary education. As of 2003, only 25.4 percent of the adult population had at least some secondary or tertiary education, compared to the Latin American average of 35 percent.

¶16. A number of social and educational programs exist that are intended to reach children at risk for working instead of attending school. A school grant program run by the Ministry of Education provides very poor families with money for school supplies. The Ministry of Education also provides alternative schooling by radio and long-distance learning for children in distant rural areas with few schools. Regional committees of "Child Defense" volunteers try to convince parents to send their children to school. Nonetheless, extreme poverty, occasional famine in some rural areas, and lack of jobs for grade school and high school graduates create an atmosphere where government incentives or programs have not yet impacted the flow of working children.

¶17. The National Commission for the Gradual and Progressive Eradication of Child Labor, established by decree by former President Carlos Flores in 1998 and maintained by current President Ricardo Maduro (who swore in a new commission in May 2002), provides a tripartite working group in which civil society (including the ILO/IPEC, unions, and NGOs), employer groups, and a number of government ministries have been able to discuss child labor issues over the past several years. The Commission created a social dialogue and forum for negotiation between the groups, resulting in broad support for the ratification of ILO Convention 182, the development of a National Action Plan for the Gradual and Progressive Eradication of Child Labor, and the Regulations on the Worst Forms of Child Labor, which were drafted by the Commission and passed by Congress in December 2001. Furthermore, the Commission spawned seven inter-institutional sub-committees throughout the country that work in a tripartite fashion to develop strategies to eliminate child labor in Honduras. Maduro's Minister of Labor, German Leitzelar - a labor lawyer by profession - has continued to increase the ministry's work combating child labor. The U.S. Department of Labor-funded Cumple y Gana recently donated a mobile inspection unit truck to the Honduran Ministry of Labor that will act as a labor investigative unit which should help address, identify, and lessen child labor.

¶18. The MOL also signed a Memorandum of Understanding with the ILO in 1997 to support the ILO/IPEC program, which initiated program activities in the melon and coffee sectors. These programs have since expanded to cover lobster divers, garbage dumps, domestic workers, and the commercial sexual exploitation of children. According to ILO/IPEC, Casa Alianza, and INE, there were over 20,000 girls in June 2004 that were working as domestic servants. The MOL also established its own office on the Gradual and Progressive Eradication of Child Labor. In September 2005, the municipality of Tegucigalpa ordered that children are prohibited from entering city landfills. This decision came mainly as a result of the work of ILO/IPEC through its Project for Prevention and Eradication of Child Labor in Landfills in Tegucigalpa. The project helps the 250 children who work in landfills and assists in integration, especially into proper education.

¶19. The Department of Labor (through ILO/IPEC as well as the Proyecto Aprendo through CARE and Catholic Relief Services), as well as UNICEF, support several projects to promote the eradication of the worst forms of child labor, including by promoting school attendance. In general, these projects aim

to remove children from or prevent children from exploitative work, and aim to provide educational opportunities and social services for children and their families.

COMMENT

¶20. The MOL has demonstrated the will given limited resources to combat the child labor problem. Post continues to seek greater overall GOH support for MOL and Ministry of Education activities to combat child labor and increase educational opportunities with the Poverty Reduction Strategy. The industry group, COHEP, has recently had renewed vigor to participate in the tripartite commission and to educate its own members on the importance of adhering to the ILO Convention 182. Post notes that this reawakened commitment came on the heels of the 2001 visit of the USTR-led interagency delegation to Honduras for the purpose of discussing labor conditions and as a result of which the delegation determined that the situation in Honduras did not warrant opening a review of CBTPA benefits. However, COHEP's commitment has continued over the past several years. The Embassy continues to work with the government, NGOs, and the private sector to send the message that the worst forms of child labor are detrimental to business with the U.S. and could subject offending sectors to U.S. sanctions. ILO/IPEC has pushed for greater efforts to combat child labor under the Poverty Reduction Strategy Paper, especially important given recent international debt relief that frees up additional funds for poverty reduction programs. Strong Honduran interest in CAFTA is clearly a motivating factor for the GOH and the private sector to accelerate efforts to eradicate the worst forms of child labor.

¶21. Child labor and failure to educate children remain significant problems in Honduras and significant impediments to improving the lot of the Honduran people. While nominally compulsory, education is expensive and out of reach for many of the poor, who are generally required to buy their own school supplies and uniforms. Coupled with a bloated educational bureaucracy that appears to value jobs for its members over education for the students, these expenses are enough to convince many poor parents that it is better to get some small income out of their children than to "waste time" going to school. In sum, Post believes that although the GOH is making progress toward the elimination of the worst forms of child labor, it will not achieve this goal in the vast rural sector until it commits the resources to make universal education a practical reality for its poorest citizens. End Comment.

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